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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/438,957	11/12/1999	TERRELL B. JONES	07099.1193-0	1078
22852	7590	03/12/2004	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 1300 I STREET, NW WASHINGTON, DC 20005			DYE, RENA	
		ART UNIT	PAPER NUMBER	
		3627		

DATE MAILED: 03/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.	Applicant(s)
09/438,957	JONES, TERRELL B.
Examiner	Art Unit
Rena L. Dye	3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 05 December 2003.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-9 and 23-34 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_ is/are allowed.

6) Claim(s) 1-9 and 23-34 is/are rejected.

7) Claim(s) \_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)                    4) Interview Summary (PTO-413)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)                    Paper No(s)/Mail Date. \_\_\_\_ .  
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)                    5) Notice of Informal Patent Application (PTO-152)  
Paper No(s)/Mail Date \_\_\_\_ .                    6) Other: \_\_\_\_ .

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 5, 2003 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1,4,7 and 29-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Alaia et al. (US 6,230,146).

Alaia teaches aggregating information reflecting demand for an item based on input requests associated with the item, each request having been received from a remote user and including remote user identification information. An auction coordinator works with buyers to prepare for and conduct an auction and to define the potentially new supply relationships resulting from the auction (column 2, lines 53-59). In the initial contact phase, the coordinator contacts the buyer, and the buyer provides data to the coordinator. The coordinator prepares a

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specification 50 for each desired product or part 52. Once the product 52 is defined, potential suppliers for the product are identified. The coordinator and buyer work together to compile the list of potential suppliers (column 2, lines 59-67). Therefore, the aggregating step aggregates the information independent of a commitment by the remote user to purchase the item, as claimed by Applicant.

The buyer decides which of the suppliers will receive invitations to the upcoming auction. Accepting suppliers are sent software to prepare for the auction. In the RFQ phase the coordinator works with the buyer 10 to prepare a "Request for Quotation" 54. The coordinator collects and maintains the RFQ, and manages the published RFQ. The RFQ includes specifications 50 for all of the parts 52 covered by the RFQ. In the RFQ 54, buyer 10 aggregates similar part or commodity line items into job "lots". These lots allow suppliers 30 to bid on that portion of the business for which they are best suited (column 3, lines 1-15).

In the auction phase suppliers submit bids on the lots and monitor the progress of the bidding by the participating suppliers. The coordinator assists, observes, and administers the auction (column 24-28).

When the bidding period is over (could include one or more bids from suppliers), the auction enters the Auction Results Administration phase. In this phase the coordinator analyzes and administers the auction results, which are viewed by the buyer (column 3, lines 33-37).

Refer to Figures 1-4.

In the ensuing Contract Administration phase 112 the coordinator facilitates settlements 62 awarded by the buyer 10 to suppliers 30. Contracts 52 are then drawn up between buyer 10

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and suppliers 30. The aggregating step aggregates the information independent of a commitment by the remote user to purchase the item.

Suppliers prepare their price quotes in light of a number of factors. Supplier-specific factors also affect the price quotes. Capacity availability, desirability of this particular buyer as a customer, desired levels of profit, and desire to diversify into other markets can all affect the price the seller is willing to accept to supply the needed product (column 5, lines 55-63).

Since the RFQ Data is managed by a third party, it is the Examiner's position that the buyer information could remain anonymous, therefore, meeting Applicant's claimed limitation of "each capable of supplying the item without also providing remote user identification information from the request". Further, since suppliers are bidding or competing against one another based upon the proposal, the limitation "wherein a proposed price for the items is set by the supplier and independent of any predetermined maximum price" has been met (claims 32-34).

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2,3,5,6,8,9 and 23-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alaia et al. (US 6230146).

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Alaia et al. has been previously discussed and fails to teach a group travel product. Since Alaia et al. teaches a method and system for conducting electronic auctions, it is the Examiner's position that it would have been obvious to one having ordinary skill in the art to have sold any product that could have been auctioned such as travel products, or in particular a group travel product. The Alaia et al. patent teaches that a coordinator prepares a specification 50 for each desired product, which could be used to describe a travel package; therefore, a buyer, or group of buyers could indicate their specific demand to the coordinator, which could be presented to applicable suppliers for bidding in the auction.

***Response to Arguments***

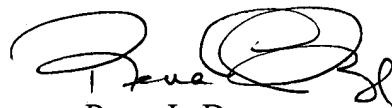
6. Applicant's arguments have been considered. The rejection of claims 1-9 and 23-28 under 35 USC 102(e) as being clearly anticipat4ed by Shkedy (US 6,260,024) has been withdrawn in view of Applicant's arguments. Shkedy teaches that the buyer is committed by purchasing the item from the supplier based on a price or criteria set by the buyer, which is different from that recited as Applicant's invention. Once a supplier has responded to the buyer's request, the buyer cannot decline the offer without paying a penalty.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rena L. Dye whose telephone number is 703-308-4331. The examiner can normally be reached on Monday-Tuesday 8:30 AM - 5:00 PM EST.

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8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 703-308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Rena L. Dye  
Primary Examiner  
Art Unit 3627

R. Dye  
March 5, 2003